

§ 20.904 Rule 904. Vacating a decision.

An appellate decision may be vacated by the Board of Veterans' Appeals at any time upon request of the appellant or his or her representative, or on the Board's own motion, on the following grounds:

(a) *Denial of due process.* Examples of circumstances in which denial of due process of law will be conceded are:

(1) When the appellant was denied his or her right to representation through action or inaction by Department of Veterans Affairs or Board of Veterans' Appeals personnel,

(2) When a Statement of the Case or required Supplemental Statement of the Case was not provided, and

(3) When there was a prejudicial failure to afford the appellant a personal hearing. (Where there was a failure to honor a request for a hearing and a hearing is subsequently scheduled, but the appellant fails to appear, the decision will not be vacated.)

(b) *Allowance of benefits based on false or fraudulent evidence.* Where it is determined on reconsideration that an allowance of benefits by the Board has been materially influenced by false or fraudulent evidence submitted by or on behalf of the appellant, the prior decision will be vacated only with respect to the issue or issues to which, within the judgment of the Board, the false or fraudulent evidence was material.

(Authority: 38 U.S.C. 7104(a))

§§ 20.905–20.999 [Reserved]

Subpart K—Reconsideration

§ 20.1000 Rule 1000. When reconsideration is accorded.

Reconsideration of an appellate decision may be accorded at any time by the Board of Veterans' Appeals on motion by the appellant or his or her representative or on the Board's own motion:

(a) Upon allegation of obvious error of fact or law;

(b) Upon discovery of new and material evidence in the form of relevant records or reports of the service department concerned; or

(c) Upon allegation that an allowance of benefits by the Board has been mate-

rially influenced by false or fraudulent evidence submitted by or on behalf of the appellant.

(Authority: 38 U.S.C. 7103, 7104)

§ 20.1001 Rule 1001. Filing and disposition of motion for reconsideration.

(a) *Application requirements.* A motion for Reconsideration must be in writing and must include the name of the veteran; the name of the claimant or appellant if other than the veteran (e.g., a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf); the applicable Department of Veterans Affairs file number; and the date of the Board of Veterans' Appeals decision, or decisions, to be reconsidered. It must also set forth clearly and specifically the alleged obvious error, or errors, of fact or law in the applicable decision, or decisions, of the Board or other appropriate basis for requesting Reconsideration. If the applicable Board of Veterans' Appeals decision, or decisions, involved more than one issue on appeal, the motion for reconsideration must identify the specific issue, or issues, to which the motion pertains. Issues not so identified will not be considered in the disposition of the motion.

(b) *Filing of motion for reconsideration.* A motion for reconsideration of a prior Board of Veterans' Appeals decision may be filed at any time. Such motions must be filed at the following address: Director, Management and Administration (01E), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420.

(c) *Disposition.* The Chairman will review the sufficiency of the allegations set forth in the motion and, depending upon the decision reached, proceed as follows:

(1) *Motion denied.* The appellant and representative or other appropriate party will be notified if the motion is denied. The notification will include reasons why the allegations are found insufficient. This constitutes final disposition of the motion.

(2) *Motion allowed.* If the motion is allowed, the appellant and his or her representative, if any, will be notified. The appellant and the representative will be given a period of 60 days from